

**REMARKS**

Claims 15-37 are pending in the application. Claims 15-19 are withdrawn as drawn to non-elected subject matter. Claims 20-37 are currently under examination. With this amendment, claims 29-31 have been amended to more clearly define the subject matter of the invention. Support for these amendments is found, for example, at page 5, lines 19-24 of the specification as filed. The abstract has been amended to correct a typographical error in the last sentence.

**OBJECTION TO THE SPECIFICATION**

The Examiner requested correction of the typographical error in the last line of the abstract. Applicants have amended the abstract to provide the correct description of the invention.

**REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH**

Claims 29-35 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to clearly define the subject matter of the invention. The Examiner has rejected claim 29, alleging that the phrase "wherein said composition is administered directly to the osteochondral graft or to the site in need of tissue repair" lacks proper antecedent basis and renders the claim indefinite. Dependent claim 30 has been rejected on the same grounds.

To clarify these claims, Applicants have amended claims 29 and 30 to clearly define the scope of the claims. These amendments clarify that the composition comprising a BMP may be applied directly to the osteochondral graft and/or the site in

need of repair in conjunction with the administration of the graft. Applicants submit that the amended claims are not indefinite and respectfully request that the rejection of claims 29-30 under 35 U.S.C. § 112, second paragraph, be withdrawn.

The Examiner rejected claim 31, and thus, dependent claims 32-35, as allegedly indefinite for the recitation of an improper Markush group. The Examiner indicated that the claim should be amended to recite "selected from the group consisting of the hip and the knee." Applicant have made the suggested claim amendment and request that the Examiner withdraw this rejection.

#### **NONSTATUTORY DOUBLE PATENTING REJECTION**

Claims 20-23, 29, and 31-37 stand rejected under the doctrine of obviousness-type double patenting in view of the claims of 1-5, 7-10, and 12-13 of United States Patent No. 6,727,224. Applicants submit herewith a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome the obviousness-type double patenting rejection and request that this rejection be withdrawn.

#### **CONCLUSION**

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and timely allowance of the pending claims. Should the Examiner have remaining questions or concerns regarding this application, Applicants request that the Examiner contact the undersigned at 617-452-1693 to schedule an interview to discuss the application.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

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By: Elizabeth Mathiesen  
Elizabeth E. Mathiesen  
Reg. No. 54,696